

III. REMARKS

1. It is submitted that claims 1-23 are not anticipated by Peyrotte et al. ("Peyrotte") under 35 U.S.C. §102(b).

In order for a reference to anticipate a claim, each element of the claim must be found in the reference. M.P.E.P. §2131. See also Scripps Clinic & Res. Found. v. Genentech, Inc., 927 F.2d 1565, 1576 (Fed. Cir. 1991). The elements should also be arranged as recited in the claim. M.P.E.P. §2131. Peyrotte does not disclose or suggest each element of Applicants' invention as recited in the claims, neither does Peyrotte disclose or suggest the particular arrangement of elements as recited by Applicant nor the recited functionality of each element and the functionality of the combination. Thus, a *prima facie* case of anticipation cannot be established over claims 1-23 of Applicants' invention in view of Peyrotte.

The Examiner has not identified with any specificity the features of any particular claim that is anticipated by Peyrotte. It appears that the Examiner has merely set forth a generalized basis for rejection with any further detail or examination. However, Applicants' invention, according to the independent claims, for example claim 11, recites an audio output state that comprises a modulator circuit for modulating a digital input signal, an amplifier circuit for amplifying the modulated signal and a filter circuit for filtering the modulated and amplified signal. Significantly, claim 11 also recites that the audio output stage includes a comparator circuit for comparing the digital input signal and a signal generated in the output stage, which signal is proportional to a previous digital input signal, and for generating a digital control signal for the modulator circuit. This is not disclosed or suggested by Peyrotte.

Although the Examiner refers to FIG. 4 of Peyrotte in support of the rejection over all of claims 1-23, the Examiner has done nothing more than identify a collection of boxes that have similar titles, such as "comparator". The Examiner has failed, however, to identify the respective functionalities of the boxes in FIG. 4, particularly with respect to the functionalities claimed in Applicants' invention according to claims 1-23. It is submitted that the order and purpose of the circuits in Peyrotte are not the same as in Applicant's invention as recited in each of claims 1-23.

The circuits and techniques described in Peyrotte relate to continuous input signals. (Col. 7, lines 26-30, FIG. 4). These are not relevant with respect to Applicant's invention. In Applicant's invention as recited in each of claim 1-23, the methods and apparatus deal with discrete signals, such as digital signals, which is not taught by Peyrotte. Thus, each of the elements recited in Applicants' invention is not found in Peyrotte.

Peyrotte discloses a method to linearize a RF power amplifier operated in class E or class F. The linearity correction is effected by correcting the amplitude and phase of the output signal separately.

The principle used in Peyrotte is to divide the input signal into its amplitude and phase components and compare these components to the respective output quantities and use the comparator outputs to modulate a amplitude modulator respective a phase shifter in order to linearize the output signal.

Note that the input signal is analog in Peyrotte. Peyrotte does not discuss sampled digital input signals and the problems and

quality degradation introduced when using a sampled digital input signal are also not disclosed or suggested. This obvious void in Peyrotte when compared to Applicants' invention prohibits a *prima facie* case of anticipation from being established.

The Examiner can see that the input signal in Peyrotte is never considered to be digital because in each figure of Peyrotte, analog couplers are used to coupled the phase and amplitude measuring signals from the amplifier input and output. Thus, a digital signal is not a consideration in Peyrotte.

Furthermore, a common element in all the embodiments of Peyrotte is an Automatic Gain Stage (AGC). AGC stages are typically analog stages, although (certain) AGC stages for sampled signals do exist. However, in Peyrotte, the stated purpose for the used AGC stage is to set the optimal operating point of the output amplifier, making the operation clearly analog.

Applicant's invention is intended to improve the signal quality of a sampled digital input signal. When used with an analog input signal, the invention would not be advantageous nor would the invention improve the signal quality. The Peyrotte method improves the quality of an output signal amplified from an **analog, not digital**, input signal.

Claims 1-23 of Applicant's invention clearly recite and pertain to the input signal being a digital input signal, as is commonly used in a mobile phone. (See e.g. FIG. 7). Peyrotte does not disclose or suggest using discrete digital input signals or samples. Applicant's invention improves the output in time between consecutive digital input samples. This is not disclosed or suggested by Peyrotte. Thus, it is submitted that claims 1-23 are not anticipated by Peyrotte under 35 U.S.C. §102(b).

2. It is also respectfully submitted that the Examiner's application of the Peyrotte reference against Applicant's invention does not appear to be complete or proper.

The Examiner does nothing more than pick and choose some elements from Peyrotte and assert that these elements somehow anticipate Applicant's invention. The Examiner merely makes a very generalized assertion that claims 1-23 are anticipated by Peyrotte and does not describe with any specificity how Peyrotte anticipates the elements of claims 1-23. The Examiner makes no reference to the arrangement of the elements or the functionalities of each element of Applicants' invention or Peyrotte, and the combination and functionality of each element of Applicants' invention is quite different from Peyrotte.

Thus, Applicant respectfully submits that this Office Action is "incomplete" as to all matters, as is required under M.P.E.P. §707. The Office Action as it presently reads failed to provide the Applicant with the necessary reasoning behind the rejection in order for Applicant to judge the "propriety of continuing prosecution", as is required. Any ground of rejection must be fully and clearly stated. M.P.E.P. §707.07(d). As such, the Examiner's action is not complete or clear. M.P.E.P. §707.07. This makes it difficult for the Applicant to be sure that he has fully responded to the ground of rejection. Appropriate correction by the Examiner is requested and if the present rejections are maintained, the issuance of a new, non-final action is requested and petitioned for that describes with the required specificity and detail, the basis and grounds for the rejections with respect to each element of Applicants' invention over the cited reference. The Examiner should describe how each

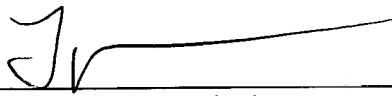
element, the combination and the functionality are taught or suggested.

However, as noted above, Applicant does not believe that the cited reference has any applicability to Applicant's invention and does not disclose or suggest each element of Applicant's invention as recited in each of claims 1-23. Thus, the claims should be allowable.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

A check in the amount of \$410.00 is enclosed for a two-month extension of time. The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



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9/2/03

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